

REMARKS

Upon entry of the Amendment above, claims 1-13 will be pending in this application. Claims 14-40 have been canceled without prejudice and to facilitate allowance of claims 1-13, which the Examiner has indicated would be allowable if the rejection under obviousness-type double patenting is overcome. Reconsideration of the merits of the application is respectfully requested in light of the Amendment above and the Remarks that follow.

Provisional Rejection

Claim 1 has been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 14 of copending Application Serial No. 10/768,995, published as Publication No. US 2005/0149142 ("Starkebaum").

A terminal disclaimer with the appropriate fee, disclaiming the subject matter of the present claims beyond the term of any patent that would issue from the Starkebaum application, is attached hereto. It is respectfully submitted that this Terminal Disclaimer obviates the outstanding double patenting rejection.

In view of the foregoing amendments, Applicant respectfully requests reconsideration and allowance of the claims as all rejections have been overcome. Notice to this effect is kindly requested.

The Examiner is respectfully requested to contact the undersigned by telephone at 763.505.0003 or by E-mail at mary.p.bauman@medtronic.com with any questions or comments.

Respectfully submitted,

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